

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

---

THE STATE OF ARIZONA,  
*Appellee,*

*v.*

CATHERINE MARSHALL,  
*Appellant.*

No. 2 CA-CR 2018-0078  
Filed November 15, 2018

---

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

*See* Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.19(e).

---

Appeal from the Superior Court in Pinal County  
No. S1100CR201701142  
The Honorable Steven J. Fuller, Judge

**AFFIRMED**

---

COUNSEL

Michael Villarreal, Florence  
*Counsel for Appellant*

STATE v. MARSHALL  
Decision of the Court

---

MEMORANDUM DECISION

Chief Judge Eckerstrom authored the decision of the Court, in which Presiding Judge Staring and Judge Brearcliffe concurred.

---

E C K E R S T R O M, Chief Judge:

¶1 After a jury trial, Catherine Marshall was convicted of theft of a credit card and sentenced to a 2.25-year prison term. Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530 (App. 1999), stating he has reviewed the record but found no arguably meritorious issue to raise on appeal. He asks this court to search the record for error. Marshall has filed a supplemental brief asserting her prison term is excessive.

¶2 Viewed in the light most favorable to sustaining the jury's verdict, *see State v. Tamplin*, 195 Ariz. 246, ¶ 2 (App. 1999), the evidence is sufficient to support the verdict here, *see* A.R.S. § 13-2102(A)(1). In December 2015, while at a casino, Marshall took the victim's purse, which she had accidentally dropped a few minutes before; the purse contained the victim's credit card. Marshall admitted having an historical prior felony conviction. The sentence imposed is within the statutory range. A.R.S. §§ 13-703(B), (I), 13-2102(B).

¶3 In her supplemental brief, Marshall asserts her sentence is excessive because her co-defendant in a previous cause number pled guilty and was placed on probation, while the case was dismissed as to her and she was subsequently charged in this case for the same conduct. She also claims that case was dismissed just before she would have accepted a plea offer under which she would have been eligible for probation.

¶4 We interpret Marshall's argument as a request that we reduce her sentence pursuant to A.R.S. § 13-4037. Our statutory power to reduce a sentence as excessive must be exercised with great caution. *State v. La Mountain*, 125 Ariz. 547, 552 (1980). "Absent a trial court's abuse of discretion or the imposition of an unlawful sentence, we will not reduce a sentence unless such a reduction is warranted by such extraordinary circumstances as to make the sentence inconsistent with statutory intent."

STATE v. MARSHALL  
Decision of the Court

*State v. Berger*, 209 Ariz. 386, ¶ 31 (App. 2004), *vacated in part on other grounds*, 212 Ariz. 473, ¶ 51 (2006).

¶5 We have found no authority suggesting that, in light of Marshall's criminal history, her 2.25-year prison term could be deemed excessive. And, the state has discretion in its charging decisions and may withdraw a plea offer at any time. Ariz. R. Crim. P. 17.4(b) ("Any party may withdraw from an agreement before the court accepts it."); *State v. Hankins*, 141 Ariz. 217, 221 (1984) ("It is clearly within the sound discretion of the prosecutor to determine whether to file charges and which charges to file."). Finally, even were the record of her former co-defendant before us, "[i]t is well settled in Arizona that there is no requirement that a court impose an identical sentence upon a co-defendant." *State v. Schlarp*, 25 Ariz. App. 85, 87 (1975). Accordingly, we reject Marshall's argument that her sentence was excessive.

¶6 We have searched the record for reversible error and found none, and we have rejected the argument Marshall raised in her supplemental brief. We therefore affirm her conviction and sentence.